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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,937	03/25/2004	Geoffrey H. Gorres	16360-002001	6884
26191	7590	05/19/2006	EXAMINER	
FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			BEFUMO, JENNA LEIGH	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/808,937

Applicant(s)

GORRES, GEOFFREY H.

Examiner

Jenna-Leigh Befumo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 14-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Amendment submitted on March 16, 2006, has been entered. No claims have been amended. Claims 1 – 24 are pending.

### ***Election/Restrictions***

2. Applicant's election without traverse of Group 1, claims 1 – 13 in the reply filed on March 16, 2006 is acknowledged.
3. Claims 14 – 24 are withdrawn from consideration as being drawn to a nonelected invention.

### ***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1 – 6, 9, 10, and 13 stand rejected under 35 U.S.C. 102(b) as being anticipated by Huber et al. (5,066,529) for the reasons of record.
6. Claims 1 – 6, 9, 10, and 13 stand rejected under 35 U.S.C. 102(e) as being anticipated by Mullis (2002/0083507) for the reasons of record.

### ***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Huber et al. or Mullis in view of Lee (4,792,471) or Crawford (4,517,230) for the reasons of record.

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9. Claims 7 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Huber et al. in view of Bylund et al. (5,486,385) for the reasons of record.

10. Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Huber et al. in view of Hamilton (5,010,589) for the reasons of record.

***Response to Arguments***

11. Applicant's arguments filed March 16, 2006 have been fully considered but they are not persuasive. The applicant argues that Huber et al. doesn't teach a self-adherent substrate that sticks to itself and not to the object to which it is applied (response, page 5). The applicant bases this argument on the example in Huber, which states a shirred elastic web is produced according to Hansen (3,575,782), and a camouflage pattern is applied to the non-adhesive surface of the web. The applicant interprets the fact that there is an adhesive as meaning the web now adheres to the surface it is applied.

Hansen discloses that the self-adherent web is produced by applying binder (which is also known as an adhesive) to the web to bond the elastic yarns to the nonwoven fabric (column 2, lines 8 – 11). The composite material is then dried, curing the binder (column 2, lines 10 – 12). And even though the web is produced by using an adhesive material, Hansen explicitly discloses that the self-adherent web adheres to itself, and does not adhere to the surface on which it is applied (column 1, lines 45 – 47). Thus, the fact that Hansen teaches that the print is applied to the non-adhesive side does not mean that material is no longer a self-adherent web, since the self-adherent web includes an adhesive. Additionally, the example teaches that the material is produced by the process disclosed by Hansen and does not teach that any adhesive materials, outside of what is taught by Hansen, are applied to the shirred elastic web. Thus, one of ordinary

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skill in the art would understand that the material is a self adherent material and does not have an additional adhesive layer added to the fabric.

Also, even if the adhesive in the example were an additional adhesive layer, Huber et al. discloses various materials can be used to form the tape substrate and that the tape may be bare backed or coated with a pressure-sensitive adhesive (column 3, lines 2 – 4). Hence, Huber et al. provides a specific teaching that the tape material can be made without a pressure-sensitive adhesive. Further, it is noted that the applicant specifically teaches that shirred elastic web taught by Hansen can be used as the self adherent material in their invention. Hence, both Huber and the applicant teach applying a camouflage print to the same web material, which would inherently have the same properties. Therefore, the rejection is maintained.

12. The applicant argues that the invention disclosed by Mullis does not teach a self-adherent material as recited in claim 1 (response, page 6). However, as set forth in the previous Office Action, the term self-adherent is examined based on the definition provided in the specification. The disclosure defined self-adherent as being a material which does not adhere to the object being covered and does not require fasteners to attach to said object (specification, page 3, lines 17 – 20). Therefore, self-adherent is defined to require a material which does not adhere to the object it is covering, which is true of the arm band disclosed by Mullis. Further, the material does not require fasteners to attach to the object. Mullis teaches that the fabric can be made from an elastic material which would stay in place without a fastener. Thus, the product taught by Mullis is a self-adherent material as defined by the applicant. Therefore, the rejection is maintained.

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13. The applicant argues that the 35 USC 103 rejections based on Huber et al. or Mullis should be withdrawn since these references fail to teach a self-adherent material (reponse, pages 6 – 7). However, as set forth above, both these references do teach using a self-adherent material. Thus, the rejections are maintained.

***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Jenna-Leigh Befumo'.

Jenna-Leigh Befumo  
May 17, 2006